

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

In re application of: )  
Blair, *et al.* )  
Int. Application No. PCT/GB02/03532 )  
US Application No. 10/573,666 )  
Filed: July 31, 2002 )  
Priority Date: August 2, 2001 )  
Title: **Telecommunication Interaction Analysis** )

Docket No. 762301-1290

**REQUEST FOR RECONSIDERATION  
OF PETITION UNDER 37 C.F.R. §1.137(b)**

Mail Stop: PCT  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Sir:

Applicants hereby request reconsideration of the Petition under 37 C.F.R. §1.137(b) filed on March 15, 2006. A decision dismissing the foregoing Petition, without prejudice, was mailed by the USPTO on December 5, 2006. Applicants respectfully request reconsideration.

In this regards, the decision alleges that the Applicants did not “adequately address[] (1) why the basic national fee was not paid prior to the preparation of the ‘informal cost estimate’ in March 2004, (2) what role the ‘informal cost estimate’ played in the subsequent delay in payment of the basic national fee, (3) what steps (if any) Andrew Pham took toward making payment of the basic [national] fee, (4) whether Mr. Hegebarth delegated any responsibility over handling the matter of this patent application to any other person, and (5) whether the delay between January 2006 and he filing of the initial petition in March 2006 was unintentional.” (Decision on Petition mailed on December 5, 2006, page 2). Each of the aforementioned contentions is addressed separately below.

(1) The basic national fee was not paid prior to the preparation of the “informal cost estimate” in March 2004 because Mr. Kevin Hegebarth wanted to know the cost of the preparation of the patent application to include the cost in his company’s budget. While awaiting

the estimate, Mr. Hegebarth overlooked the issue and therefore the deadline was unintentionally lapsed, inadvertently allowing the application to go abandoned.

(2) The only role that the informal cost estimate played in delaying payment was that it resulted in a period of time during which Mr. Kevin Hegebarth forgot about the application during the acquisition of Eyretel. As mentioned in Mr. Hegebarth's Affidavit filed with the Petition to Revive, Mr. Hegebarth was in charge of functional integration of Eyretel's and Witness' products, marketing integration of Eyretel's and Witness' brands, partnering strategy with technology companies, and management of Eyretel's patent applications that were being transferred to Witness. All these responsibilities were overwhelming to Mr. Hegebarth, particularly management of Eyretel's patent applications, because Mr. Hegebarth does not have a patent background. Instead, Mr. Hegebarth has a business degree; and thus, he was more focused working on the business side of the acquisition of Eyretel. In fact, Mr. Hegebarth did not respond to Mr. Gill's letter both times with respect to providing an estimate and also providing approval to file in the U.S. An explanation from Mr. Hegebarth for this oversight was that he might have seen the emails, but forgot about it a few days later because he was working on other projects that were vital to the company. Mr. Hegebarth unintentionally abandoned this particular application due to the confusion that occurred when his company, Witness, acquired Eyretel and the overwhelming responsibilities that Mr. Hegebarth was undertaking, which included Eyretel's patent applications that were being transferred to Witness.

(3) Mr. Andrew Pham was retained by Witness in the fourth quarter of 2005 as chief director of intellectual property. Mr. Pham evaluated Witness' patent portfolio and also planned its patent strategy for the 2006 calendar year. From January to March 2006, Mr. Pham discovered that the pending application was abandoned, requested a law firm to determine whether the pending application could be revived, gathered information from Mr. David Gill and Mr. Kevin Hegebarth, and authorized the preparation of the petition to revive along with the payment of the basic national fee filed on March 15, 2006. Mr. Pham's actions before the filing of the initial petition in March 2006 were investigative and considered to be due diligence in researching Witness' possible recourses and/or corrective actions, which led to the filing of the petition.

(4) At the time, Mr. Hegebarth did not delegate any responsibility over handling the matter of this patent application to any other person.

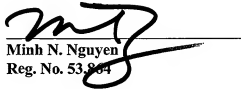
(5) From January to March 2006, Mr. Pham discovered that the pending application was abandoned, requested a law firm to determine whether the pending application could be revived, gathered information from Mr. David Gill and Mr. Kevin Hegebarth, and authorized the preparation of the petition to revive along with the payment of the basic national fee filed on March 15, 2006. Mr. Pham's actions before the filing of the initial petition in March 2006 were investigative and considered to be due diligence in researching Witness' possible recourses and/or corrective actions, which led to the filing of the petition.

### CONCLUSION

Applicants respectfully submit that Mr. Hegebarth and Mr. Pham did not at any time intentionally abandon this application. Therefore, Applicants respectfully request that the reconsideration and Petition to Revive be granted.

It is believed that no fee is due in connection with this Request for Reconsideration. If, however, any additional fee is required, you are hereby authorized to charge any such fee to Deposit Account No. 20-0778.

Respectfully submitted,

  
Minh N. Nguyen  
Reg. No. 53,884

**THOMAS, KAYDEN, HORSTEMEYER  
& RISLEY, L.L.P.**

Suite 1750  
100 Galleria Parkway N.W.  
Atlanta, Georgia 30339  
(770) 933-9500